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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,327

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Lourens George Bordewijk

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

ROBINSON, RYAN C

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

07/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,327	Applicant(s) BORDEWIJK, LOURENS GEORGE	
	Examiner RYAN C. ROBINSON	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/5/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-10 are pending in the current application

Priority

2. This application claims priority from PCT application number PCT/NL03/0677, filed on 10/3/2003, which claims priority from Dutch Patent application number 1021588, filed on 10/5/2002.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification is objected to because of the following informalities: The specification is missing the headings in items (f)-(i) as shown above. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Lines 2-3 of claim 10 make reference to "said pull cord" of claim 1. It is understood by the language of claim 1 that there are two pull cords, (i.e. one for each part). It is unclear which pull cord is being referred to by the term "said pull cord".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2614

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shennib et al., US Patent No. 6,546,108, filed on 8/31/1999, (hereby Shennib).

7. As to claim 1, Shennib teaches a hearing aid (Fig. 1) comprising two parts (40), and (12) that can be joined together/taken apart, as well as a pull cord (49) for removing said hearing aid from the auditory canal. It is noted that the particular embodiment shown in Fig. 1 does not show that each of said parts are provided with a pull cord attached thereto. However, the embodiment in Fig. 3C for the part (12) is shown with a pull cord (23) attached. It would have been obvious to one of ordinary skill at the time of applicant's invention to use this embodiment in the hearing aid shown in Fig.1 to provide for easier removal and insertion of the battery (Col. 6, lines 21-25).

8. As to claim 3, Shennib teaches a first universal part (40). It is noted, however, that Shennib does not disclose that the part (40) is provided with a microphone, electronics and loudspeaker. However, the examiner takes official notice that it is well known in the art for a battery powered hearing aid to contain a microphone, electronics and loudspeaker.

9. As to claim 4, Shennib teaches a second part (40) that has been matched to the user's auditory canal. Fig. 4 shows that the second part (40) conforms to the user's auditory canal (1). The second part (40) is designed to accommodate a battery (10) in slot (41).

10. As to claim 5, Shennib teaches that the parts, (40) and (12), can be slid into one another. As shown in Fig. 1, the insertable section (11) of second part (12) is inserted into the cavity (41) of first part (40) (Col. 5, lines 13-14).

11. As to claim 6, Shennib teaches that one pull cord (Fig. 4, element 12) is provided with profiling (22).

12. As to claim 7, Shennib teaches that one pull cord (49) is essentially smooth. The pull cord (49) in Fig. 4 is shown without grooves and therefore is smooth.

13. As to claim 10, Shennib teaches that the parts (40) and (12) are of non-circular construction, such that when fitted in the auditory canal (Fig. 4, element 1), a pull cord (49) is on the face side of auditory canal.

14. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shennib et al., US Patent No. 6,546,108, filed on 8/31/1999, (hereby Shennib), in view of Nielson, US Patent No. 6,529,609, filed on 10/29/1998, (hereby Nielson).

15. As to claim 8, Shennib does not explicitly teach that one pull cord comprises a nylon material. However using nylon as a pull cord is well known in the art. Neilson teaches a pull cord (Fig. 4) for a hearing aid comprised of nylon (Col. 5, lines 3-4). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention, to incorporate Neilson's nylon pull cord into the hearing aid of Shennib, in order to provide the benefits of custom sizing by the user, and more uniform manufacturing (Neilson: Col. 2, lines 43-46).

16. As to claim 9, Neilson teaches that the pull cord (Fig. 4) comprises a separate part provided with a thickened end (221), accommodated in a recess in one of said parts (303).

Allowable Subject Matter

17. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art (Shennib, US 6,546,108) teaches that the parts are fitted only in one position with respect to one another. However, Shennib does not teach that the pull cords are at least partially in contact with one another, which is required by claim 2.

Conclusion

The prior art made of record

- a. US Patent Number **6,546,108**
- b. US Patent Number **6,529,609**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Robinson whose telephone number is (571) 270-3956. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Suhan Ni, can be reached on (571) 272-7505. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan Robinson

/Suhan Ni/

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Primary Examiner, Art Unit 2614